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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

1850 M Street, N.W., Suite 1100
Washington, DC 20036

September 13, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M St., NW
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 96-149

Dear Mr. Caton:

Attached is the original plus 11 copies of Sprint Corp.'s Reply Comments in the above-captioned proceeding. We have also provided Ms. Janice Myles of the Common Carrier Bureau with this filing on diskette in WordPerfect 5.1 format.

Sincerely,

A handwritten signature in cursive script that reads "Norina Moy".

Norina Moy
Director, Federal Regulatory
Policy and Coordination

cc: Janice Myles

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Implementation of the Non-)	CC Docket No. 96-149
Accounting Safeguards of)	
Sections 271 and 272 of the)	
Communications Act of 1934,)	
as amended;)	
)	
and)	
)	
Regulatory Treatment of LEC)	
Provision of Interexchange)	DOCKET FILE COPY ORIGINAL
Services Originating in the)	
LEC's Local Exchange Area)	

REPLY COMMENTS

Sprint Corporation, on behalf of Sprint Communications Company, L.P. and the Sprint local exchange carriers, hereby respectfully submits its reply to comments filed on August 29, 1996, regarding regulatory treatment of in-region interLATA services provided by independent telephone companies (ITCs) and their affiliates.

I. INTRODUCTION AND SUMMARY.

In this phase of the proceeding, the Commission is considering whether the in-region interLATA services provided by ITCs should continue to be subject to nondominant carrier regulation, and whether the existing *Competitive Carrier V* regulations¹

¹ Under *Competitive Carrier V*, the LEC and its interexchange operation must maintain separate books of account, not jointly own transmission or switching facilities, and provide/obtain LEC services at tariffed rates.

should continue to apply. In its comments, Sprint demonstrated (p. 3) that because of their widely dispersed and largely rural service territories, the Sprint local telephone companies, and other similarly situated ITCs, do not possess sufficient local market power to enable them to disadvantage their interLATA competitors in the provision of in-region, domestic interexchange service. Cost allocation rules and nondiscrimination safeguards adopted by the Commission and Congress,² along with the continued dominant carrier regulation applied to local exchange operations, provide sufficient protection against discriminatory and otherwise anti-competitive activity. Therefore, the Commission should treat bundled local and long distance service as nondominant and free ITCs of the now-redundant *Competitive Carrier V* regulations.

II. DOMINANT CARRIER REGULATION OF ITCs' INTEREXCHANGE OPERATIONS IS INAPPROPRIATE.

Three parties, AT&T (p. 8), MCI (pp. 6-7), and Teleport (p. 2), urge that Sprint and other IXCs affiliated with an ITC be subject to dominant carrier regulation (including 45 days' notice for tariff filings, full cost support, imputation of access charges, and certain reporting requirements) and Section 271 separate affiliate requirements. Such recommendations are contrary to the public interest for several reasons.

² These safeguards must include the requirement that ITCs provide any tariffed local or exchange access service (including local switching and transmission facilities or unbundled network elements) to their interLATA operations at generally available tariffed rates, terms and conditions.

First, these recommendations are more onerous than the regulations currently in effect for ITCs, and more onerous than the Commission appeared to contemplate would be necessary. In the *NPRM* in this proceeding, for example, the Commission requested comment on "whether we should continue to classify independent LECs as dominant in the provision of in-region, interstate, domestic, interexchange services, if they provide those services directly" in light of the removal of the restriction on BOC provision of interLATA services, and the Commission's recent examination of the regulatory requirements associated with BOC provision of out-of-region interLATA service (§155). Obviously, it makes no sense to adopt a regressive regulatory scheme for ITCs at the same time that the regulatory requirements on the BOCs are being relaxed.

Even AT&T recognizes that ITCs are in a substantially different position than the BOCs, stating (p. 6, n. 11):³

This is not to say that the BOCs generally do not pose a greater threat to competition [than do ITCs]. The bottleneck facilities of independent LECs extend over smaller geographic areas than those of the BOCs (*see NPRM*, § 147), they generally serve less densely populated areas, and interexchange carriers often interconnect to independent LEC exchanges only indirectly (*i.e.*, through a BOC). Moreover, it is far less likely that an independent LEC will be providing access at both the originating and the terminating ends of a call than that a BOC will control both ends....

³ See also GTE, p. 28 (citing ITCs' dispersed and predominantly rural and suburban service areas, and the lower percentage of calls which both originate and terminate in GTOC exchanges as compared to various RBOC exchanges).

AT&T's recognition that ITCs pose far less of a threat to competition than do the BOCs is difficult to square with its insistence that ITCs should be subject to the same regulatory requirements as apply to the BOCs (if and when the BOCs are allowed to provide in-region interLATA services).

Even more important, the need for different regulatory standards for ITCs and BOCs has long been asserted by Congress, the Department of Justice, and the Commission. For example, it is clear from its adoption of specific provisions which apply only to the BOCs (Sections 271-276 of the Telecommunications Act of 1996) that Congress intended to subject the BOCs to a greater degree of regulatory scrutiny than that applied to other incumbent LECs. The MFJ, which was superseded by the 1996 Telecommunications Act, applied only to the BOCs (although the Department of Justice did subsequently enter into a separate consent decree with GTE). And, the Commission adopted numerous rules and regulations for ITCs which are less onerous than those which apply to the BOCs (e.g., equal access schedules and the *Competitive Carrier V* rules). Applying the same separate affiliate requirements and dominant carrier regulation to ITCs' in-region interLATA operations as would apply to the BOCs' in-region interLATA operations is inconsistent with Congressional intent and past regulatory treatment. Therefore, the measures proposed by AT&T, MCI and Teleport here should not be adopted.

The irrationality of proposing more onerous regulation for ITCs here is reinforced by the fact that no party has shown that

the *Competitive Carrier V* regulations, which have been in place for 12 years, have been insufficient or ineffective. Sprint Communications Co. and its predecessors have been affiliated with ITCs since 1984. In that time, Sprint has never been found, or even been accused of, providing interexchange services at predatorily low or otherwise unreasonable rates, nor is there any evidence to suggest that Sprint's ITC affiliate had ever improperly cross-subsidized or otherwise discriminated in favor of Sprint's long distance operations. In the comments in this proceeding, only one party cited any specific allegation of anti-competitive activity by an ITC (see AT&T, p. 10, alleging misconduct by SNET relating to long distance PIC freezes and PIC selections). Given the lack of evidence of any pattern of ITC abuses, the Commission should investigate specific allegations of wrongdoing and take whatever punitive and corrective actions are warranted, rather than imposing onerous regulation on the interexchange operations of all ITCs.

AT&T's, MCI's and Teleport's recommendations here are also economically irrational. As noted above, widely dispersed, rural ITCs lack the market power to skew long distance competition because of the nature of their service territories. IXC's such as Sprint which provide nationwide service set their rates based on nationwide costs, of which the access rates charged by its affiliated ITC comprise only a very small percentage. Therefore, even assuming that an ITC were successful in its attempts to manipulate access charges to the benefit of its IXC affiliate,

the effect of such anti-competitive behavior would be extremely minor given the insignificant weight the ITC's access rates have in a nationwide average cost analysis. It makes no sense to regulate an ITC's in-region interLATA operations on a dominant carrier basis when there is virtually no possibility that anti-competitive conduct by the ITC -- even assuming that such conduct were possible -- could materially impact competition in the nationwide interexchange market.

To the contrary, adoption of dominant carrier regulation for IXCs affiliated with an ITC would likely have a detrimental impact on existing interexchange competition. It would increase the amount of regulation applied to IXCs such as Sprint, thereby increasing its costs relative to those incurred by its non-dominant competitors such as AT&T and MCI and severely hampering Sprint's ability to respond promptly to shifts in the marketplace.⁴ Indeed, it is difficult to imagine how Sprint's long distance division would comply with dominant carrier regulation in the Sprint LECs' in-region territories. For example, Sprint's interstate tariffs govern service provided across the country. Unlike international tariffs, Sprint's interstate tariffs do not

⁴ Indeed, the 45 day tariff filing notice period proposed by AT&T and MCI far exceeds the 7 or 15 day notice period discussed in Section 402(b)(1)(A)(iii) of the 1996 Act for LECs. The Commission is currently considering measures to implement streamlined LEC tariff filings under this section of the Act (see *Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, CC Docket No. 96-187, Notice of Proposed Rulemaking released September 6, 1996 (FCC 96-367)).

offer region-specific rates.⁵ It would be extremely confusing and administratively complex to offer service in pockets of the country with different notice periods,⁶ and virtually impossible to segregate out the specific costs of providing service in those pockets. Given its acknowledgement that the interexchange market is properly defined as a single national market (AT&T, p. 4, n. 6), and its long history of complaints about the evils of asymmetric regulation, it is certainly ironic that AT&T would here urge that Sprint and other IXCs affiliated with an ITC be subject to more onerous regulation than that applied to the two largest IXCs.

III. NONDOMINANT REGULATION OF ITCs' LOCAL AND EXCHANGE ACCESS SERVICES IS INAPPROPRIATE.

In contrast to AT&T, MCI and Teleport, several ITCs assert that they lack market power in the interLATA market and that currently effective safeguards and the existence of local competition removes their incentive and ability to cross-subsidize their long distance operations with revenues from their local operations.⁷ Therefore, these carriers argue that they should be

⁵ Because of this major distinction between interstate and international service offerings, AT&T's comparison to FCC classification of U.S. international carriers affiliated with monopoly foreign carriers as dominant for calls along the route between that country and the U.S. (AT&T, p. 5), is inapt and should be rejected.

⁶ For example, if new services or rates become effective on different dates in different parts of the country, Sprint could not use national advertising or a master billing table.

⁷ See, e.g., USTA, pp. 3, 5; Citizens, p. 3; GTE, p. 6; ITTA, p. 3; NTCA, p. 2; SNET, p. 5.

allowed to provide local and long distance services on an integrated basis, that the combined entity should be subject to non-dominant carrier regulation, and that the *Competitive Carrier V* requirements eliminated.

As noted above, Sprint agrees that ITCs should be allowed to provide local and interLATA services on an integrated basis, subject to nondominant carrier regulation, assuming that adequate nonstructural safeguards (the cost allocation and accounting rules, and the requirement that the ITC's long distance operation obtain regulated services from the ITC pursuant to tariff) are in effect. In addition, ITCs' local and exchange access services should continue to be subject to dominant carrier regulation.^a As GTE points out (p. 17), if ITCs "could inflict competitive injury on an IXC by manipulating exchange access services, the appropriate regulatory response would be to adopt corrective regulation over the cause, that is, the provision of access services."

It is true that all LECs, including ITCs, are facing potential competition as a result of the 1996 Act, and that competition, when it is established, will provide a check on incumbent LECs' incentive and ability to cross-subsidize long distance operations with revenues from local and exchange access services. However, it is not the case that the local and exchange access

^a Furthermore, ITCs should not be allowed to provide integrated local and long distance services on a nondominant basis while at the same time avoid Section 251(b) and (c) obligations.

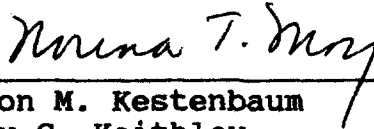
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markets are yet fully competitive or that any incumbent LEC now lacks market power in its local and access service territories.⁹ Because incumbent LECs remain the dominant in-region local carriers, their local and access services should continue to be subject to dominant carrier regulation. In addition, the Commission must continue to require that all LECs meet their equal access obligations, including the requirement that "a customer seeking local service from [an ITC] be presented with his or her options for interexchange service in a neutral fashion" (AT&T, p. 9).

Respectfully submitted,

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September 13, 1996

⁹ See, e.g., GTE, p. 18 (ITCs no longer possess bottleneck access facilities); SNET, p. 15; USTA, p. 5.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Reply Comments** of Sprint Corporation was sent by hand or by United States first-class mail, postage prepaid, on this the 13th day of September, 1996 to the below-listed parties:

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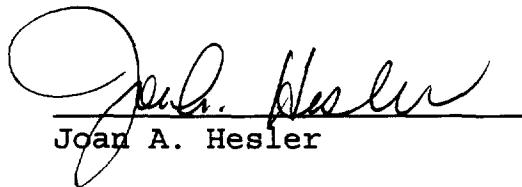
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September 10, 1996

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